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HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Writ Petition No.2477 of 2003

PETITIONER: K.C. PAIKARA, Aged 42 years,
S/o Shri T.R. Paikara,
Zonal Manager, Agro-Climatic Zone,
Bilaspur (C.G.)

\- Versus -

RESPONDENTS:

1. State of Chhattisgarh,
Through: The Principal Secretary/ Agriculture Production Commissioner to the Government of Chhattisgarh, Agriculture Department, Mantralaya, Raipur (C.G.)

2. The Director of Agriculture, Chhattisgarh, Raipur (C.G.)

POST FOR ORDER ON 17th SEPTEMBER, 2003

Sd/-
L.C. Bhadoo
Judge

(48)

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Present: -

Mr. R. Dayal, Advocate: For the petitioner

Mr. Ranbir Singh, Govt. Advocate: For the State/respondents

Before: Hon'ble Shri Justice L.C. Bhadoo

O R D E R

(Passed on 17th September, 2003)

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India and challenged the order dated 07.08.2003 by which the petitioner has been transferred from the post of Zonal Manager, Agriculture-Climatic Zone, Bilaspur, to the Directorate of Agriculture, Raipur, against the post of Additional Director, Agriculture, vide Annexure P-1.

2. The petitioner's petition is that the petitioner was posted and working as Deputy Director of Agriculture, Dhamtari. On promotion as Joint Director of Agriculture, he was posted as Zonal Manager, Agro-Climatic Zone, Bilaspur, vide order dated 13th May, 2003 (Annexure P-2) and in pursuance of that order, the petitioner joined his duties on 04.06.2003 at Bilaspur. One

Manohar Sai Karketta who was working as Deputy Director of Agriculture, Ambikapur, has now been promoted to the post of Joint Director of Agriculture and has been posted at petitioner's place vide order dated 07.08.2003 (Annexure P-3) without any order in relation to the petitioner, but by a separate order (Annexure P-1) the petitioner has been transferred as Additional Director, Agriculture and posted in Directorate of Agriculture, Raipur. This order has been revised by order dated 11.08.2003 stating that the petitioner is being posted against the post of Additional Director, Agriculture in the Directorate of Agriculture, Raipur. This transfer has been made only to oblige/adjust/accommodate Manohar Sai Karketta at Bilaspur within a short interval when the petitioner has joined here on 04.06.2003 during the academic session when he has settled his family and children at Bilaspur. No post of Joint Director is vacant at Raipur, even then the petitioner has been transferred against the post of Additional Director just to accommodate Manohar Sai Karketta. This transfer is not on the ground of administrative exigency. Manohar Sai Karketta could have been easily adjusted at Bilaspur against the post on which the petitioner has been transferred by the impugned order. The petitioner has already incurred a good amount for admission/tuition fees, books, uniforms etc. for his children at Dhamtari during this academic session. On his transfer/posting at Bilaspur, he has again incurred the amount for the same purposes. Now, having again been transferred at Raipur, he will be again required to incur huge expenditure for the same purposes. Therefore, operation of the transfer order be stayed having been not acted upon since no handing over/taking over has been done so far.

3. Return has been filed on behalf of the State/respondents in which it has been mentioned that for the purposes of smooth functioning of the Government ad-hoc promotions have been made in the agriculture department and as a result of new promotions, officers are also required to be posted according to their status. The petitioner is a senior officer of the Agriculture Department and for the smooth functioning of the Government,

at times, it becomes necessary to transfer the senior officer from one place to another place. It is submitted that the petitioner has been transferred on administrative exigency as contained in circular dated 01.01.2002. The petitioner has not been put to any disadvantageous position. The promoted officer is also to be accommodated to suitable post. The transfer of the petitioner is not out of any mala-fide or contrary to the rules. Moreover, the transfer has been made on administrative exigency. Therefore, the writ petition be dismissed.

4. I have heard the learned counsel for the parties.

5. The learned counsel for the petitioner submitted that there is no post lying vacant at Raipur and the petitioner has been transferred against the post of Additional Director. Moreover, the petitioner had joined at Bilaspur, on his transfer from Dhamtari to Bilaspur, in the month of June only and within a period of two months the petitioner has again been transferred to Raipur, whereas, the person (Manohar Sai Karketta) who has been posted at the place of the petitioner could have been easily adjusted at Raipur. The learned counsel further submits that since the children of the petitioner have been admitted in the school at Bilaspur, the petitioner may be allowed to continue till the next session i.e. up to April, 2004, and thereafter, if the petitioner is transferred then the petitioner has no objection.

6. On the other hand, the learned Govt. Advocate for the State/ respondents submitted that the petitioner's transfer has been made on administrative exigency and on account of certain promotions, the transfer has been made to adjust all the officers for smooth functioning of the Department. Therefore, there is no substance in the petition.

7. The petitioner has not mentioned anywhere that his transfer has been made on account of any mala-fide or the same is contrary to any statutory rules, where as the reply on behalf of the State/respondents is that the transfer has been made on administrative exigency. The petitioner's case is that he has been transferred only to accommodate Manohar Sai

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Karketta. As far as the question of petitioner's transfer against the post of Additional Director is concerned, if the post of the Additional Director is lying vacant then transfer of a junior officer against that post i.e. Joint Director can be made. The learned counsel for the petitioner could not point out any irregularity or illegality based on any circular/rules and regulations, by which a junior officer cannot be posted against the senior post. As far as the question of inconvenience and hardship caused to the petitioner, which has been pointed out in the petition is concerned, the transfer is an incident of service. Unless the transfer is against the statutory rules or on the ground of mala-fide, the transfer cannot be subjected to judicial review. But the petitioner has not made out a case for judicial review of the impugned transfer order.

8. Having heard the learned counsel for the parties and having perused the pleadings of the parties, the petitioner is allowed to make a detailed representation mentioning all his grievance to the respondents within a period of ten days from today and the respondents shall consider his representation in an objective manner within thirty days from the date of receipt of the representation and pass an appropriate order. If it is possible, then the respondents can adjust him suitably.

9. The petition is disposed of with above observations.

Sd/-
L.C. Bhadoo
Judge

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